

UPDATED: Procedures for Utilizing the ITAR §126.18 Exemption

Effective immediately, the Directorate of Defense Trade Controls (DDTC) is updating the procedures to utilize the ITAR §126.18 exemption for technical assistance agreements (TAAs) and manufacturing license agreements (MLAs).

In guidance issued July 25, 2011, DDTC required all TAAs and MLAs to be amended prior to use of the ITAR §126.18 exemption for two reasons: updating the new verbatim clause at ITAR §124.8(5) and to add specific language to the ITAR §124.7(4) section of the agreement.

Upon further review of these requirements and through experience gained in administering the regulation, DDTC has decided to change the requirement for TAAs and MLAs.

With the posting of this web notice, TAAs and MLAs do not have to be amended to include the modifications cited above in order to utilize the ITAR §126.18 exemption. All agreement holders and foreign parties utilizing the ITAR §126.18 exemption must maintain a copy of this web notice in their records.

As the next major amendment is required in accordance with ITAR §124.1(c), the agreement language must be updated to include the updated ITAR §124.8(5) verbatim clause. All pending TAAs and MLAs, or amendments, which do not include the updated ITAR §124.8(5) verbatim clause will receive a proviso to correct the clause prior to execution of the agreement or amendment.

The requirement to specifically request use of the ITAR §126.18 exemption in ITAR §124.7(4) is no longer required. However, in order to continue the use of ITAR §124.16 under Option 1, or the initial request of ITAR §124.16, the agreement must be amended pursuant to ITAR §124.1(c) to include Option 2 language. If utilizing ITAR §124.16 only under Option 1 verbiage, these amendments must be submitted within 6 months of this web notice to continue the use of ITAR §124.16.

The “Guidelines for Preparing Electronic Agreements” will be updated accordingly.

This guidance supersedes and replaces the notice posted March 7, 2013.